

Montgomery County Response Foreclosures

Meeting #3
March 10, 2009

CountyStat Principles

- Require Data Driven Performance
- Promote Strategic Governance
- Increase Government Transparency
- Foster a Culture of Accountability



Agenda

- **Welcome and introductions**
- **Follow-ups**
- **Foreclosure data update**
- **Impact of foreclosures on Common Ownership Communities**
- **Assessing best practices: Using a model ordinance to mitigate foreclosure impacts**
- **Recent developments**
- **Wrap-up**



Meeting #3 Goals

The goal of this meeting is to

- Evaluate the current state of foreclosure events in the County and compare to previous quarters
- Examine and differentiate the needs of common ownership communities versus other types of communities in the County
- Evaluate the feasibility of implementing a model ordinance that would address foreclosed and vacant properties in the County



Follow-up Item Progress

Foreclosures (1 of 2)

Complete

- Assess the pros and cons of the alternatives/best practices to mitigate foreclosures, as detailed in the January 9th CountyStat presentation. Include what it would require to implement those approaches in the County.

Complete

- Develop a clear message to notify County employees via email about how to report vacant properties in the County through DHCA's website.
 - On 2/9/09, DHCA sent an email through MCG Postmaster to all County employees, providing directions on reporting ill-maintained vacant properties via the DHCA website

Complete

- Adjust affordable housing supply table to include units in the “development pipeline.”
 - Table has been updated to accommodate changes and included in the 1/9/09 Foreclosures and Affordable Housing presentation, available via the CountyStat website



Follow-up Item Progress

Foreclosures (2 of 2)

In Progress

- Finalize and distribute survey of the impact of foreclosed properties on common ownership communities. Collect data, and report results at the next CountyStat meeting on foreclosures.
 - The Commission on Common Ownership Communities, in conjunction with OCP, finalized and administered an online survey to COCs. However, due to the initial low response rate, other survey solutions are being pursued.

Complete

- Continue to track outcomes of foreclosure programs, specifically foreclosure prevention counseling, vacant property reporting, and code enforcement of vacant properties.
 - DHCA will report updated data on counseling and code enforcement to CountyStat on a quarterly basis. The next submission will be on 4/15/09.



Current state of foreclosures in the County

Overview

	Notices of Default	Notices of Sale	Lender Purchases	Total Events
2007 Q1	103	64	16	183
2007 Q2	466	69	70	605
2007 Q3	527	270	58	855
2007 Q4	556	627	130	1,313
2008 Q1	613	918	117	1,648
2008 Q2	1163	78	76	1,317
2008 Q3	504	111	315	930
2008 Q4	883	368	330	1,581
Total	4,815	2,505	1,112	8,436

Based on the data provided by RealtyTrac, there has been an increase in foreclosure events from the 2nd and 3rd quarters to the 4th quarter of 2008.

Source: Address-level data provided by RealtyTrac to the Maryland Department of Housing and Community Development (DHCD). The data was then "geocoded" to locate each foreclosure event for use with mapping software. The totals reported from address-level data will not always match DHCD's reported totals at the zipcode, county, or other levels of geography.



Current state of foreclosures in the County

Overview of Foreclosure Events by Regional Service Area

	Notices of Default	Notices of Sale	Lender Purchases	Total Events
Bethesda	455	228	87	770
East County	562	300	114	976
Mid County	1,157	575	270	2,002
Silver Spring	313	148	69	530
Up-County	2,300	1,238	568	4,106
Total	4,787	2,489	1,108	8,384

This table reflects cumulative foreclosure figures since the 1st quarter of 2007.

Note: As of November 2008, the Silver Spring Regional Service area GIS layer was adjusted; the figures in the table reflect this adjustment.

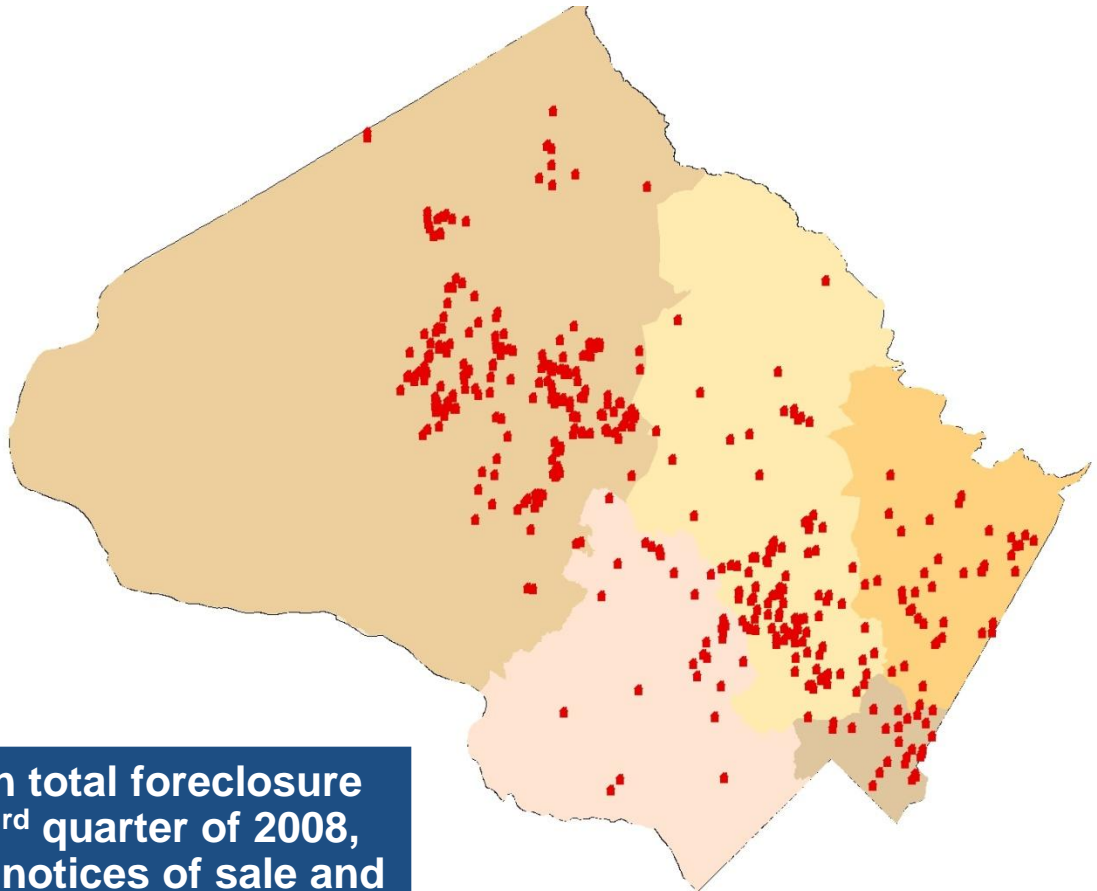
Source: Address-level data provided by RealtyTrac to the Maryland Department of Housing and Community Development (DHCD). The data was then "geocoded" to locate each foreclosure event for use with mapping software. The totals reported from address-level data will not always match DHCD's reported totals at the zipcode, county, or other levels of geography.



Current state of foreclosures in the County

3rd Quarter 2008

Regional Service Center	Notices of Sale	Lender Purchases
Bethesda	9	24
East County	18	24
Mid County	20	85
Silver Spring	8	19
Up-County	56	163
Total	111	315



While there was a decrease in total foreclosure events between the 2nd and 3rd quarter of 2008, there was a 142% increase in notices of sale and more than a 414% increase in lender purchases.

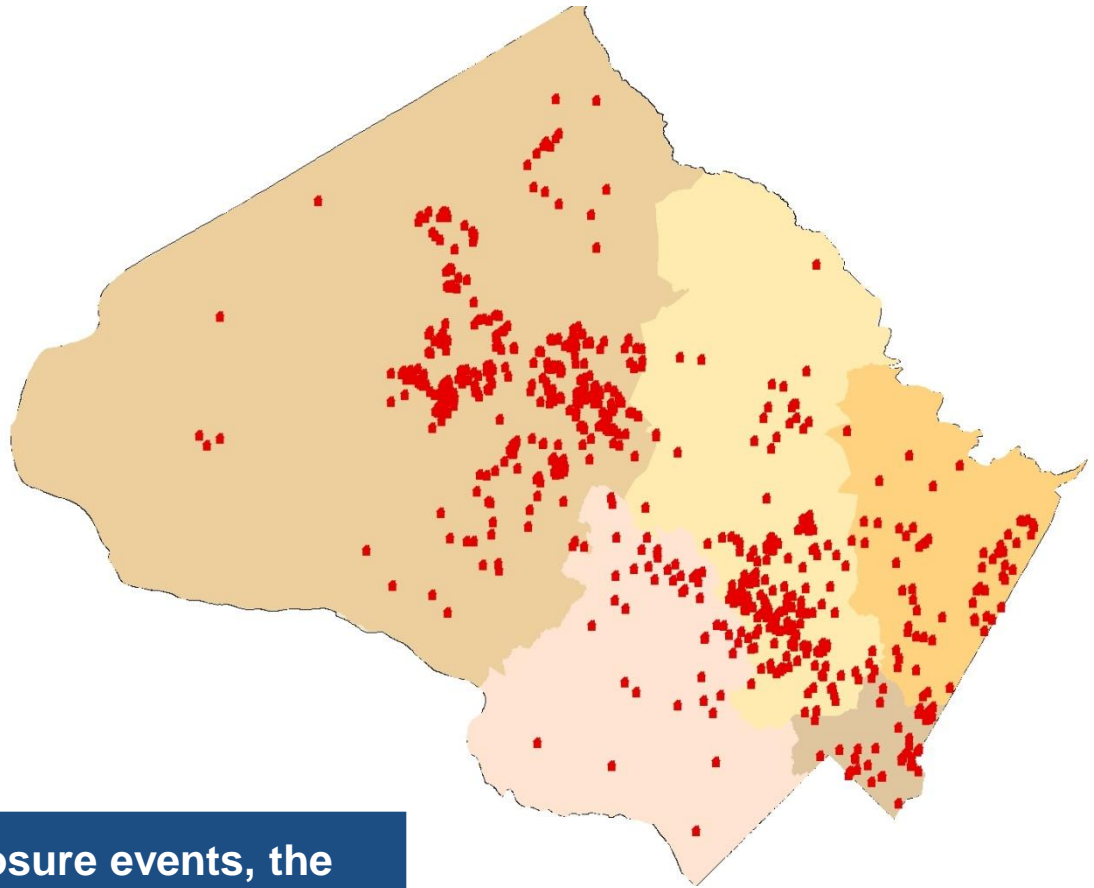
Source: Address-level data provided by RealtyTrac to the Maryland Department of Housing and Community Development (DHCD). The data was then "geocoded" to locate each foreclosure event for use with mapping software. The totals reported from address-level data will not always match DHCD's reported totals at the zipcode, county, or other levels of geography.



Current state of foreclosures in the County

4th Quarter 2008

Regional Service Center	Notices of Sale	Lender Purchases
Bethesda	27	21
East County	32	34
Mid County	88	86
Silver Spring	25	19
Up-County	196	170
Total	368	330



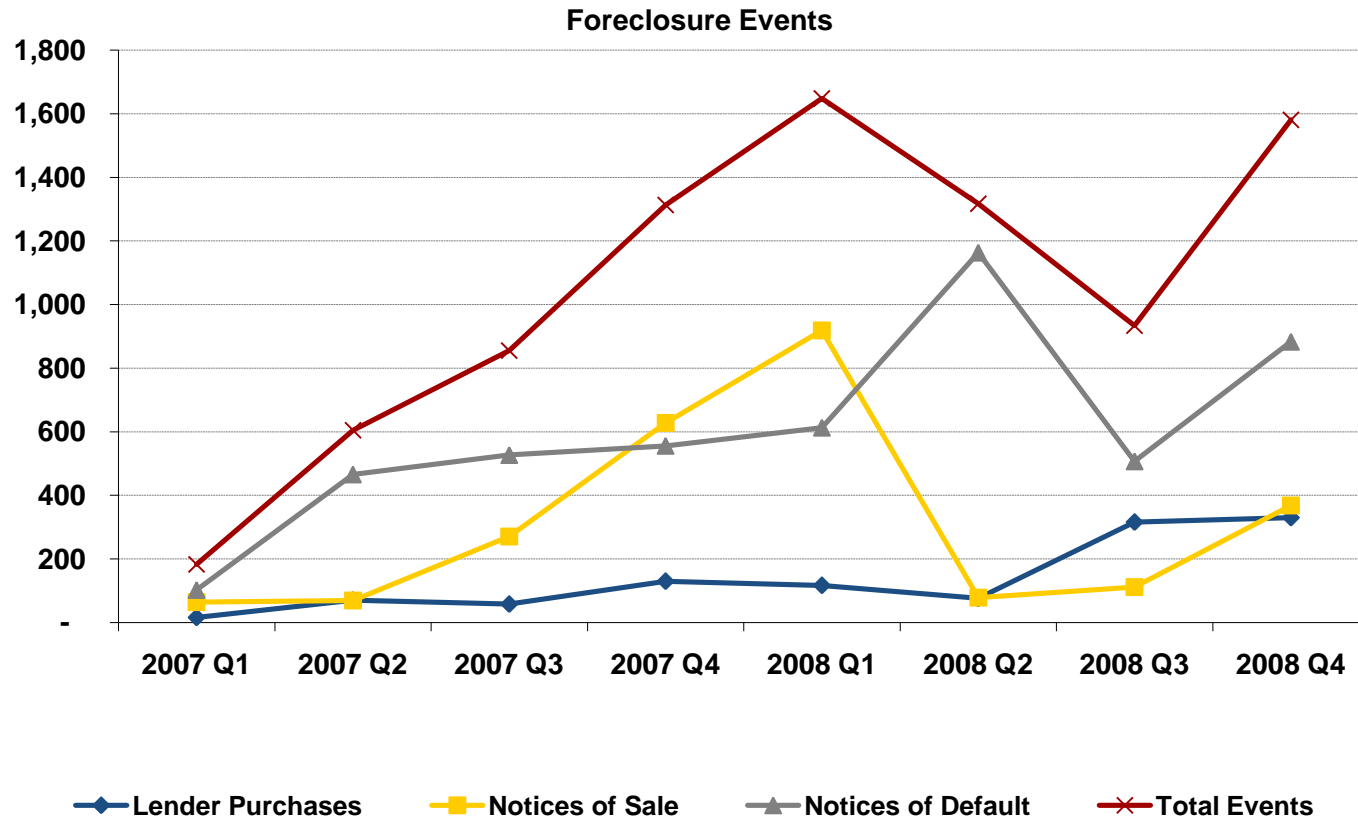
While there are more foreclosure events, the areas of concentration have not changed.

Source: Address-level data provided by RealtyTrac to the Maryland Department of Housing and Community Development (DHCD). The data was then "geocoded" to locate each foreclosure event for use with mapping software. The totals reported from address-level data will not always match DHCD's reported totals at the zipcode, county, or other levels of geography.



Current state of foreclosures in the County

Foreclosure events over time



There has been an increase of foreclosure events into the 4th quarter of 2008.

Source: Maryland Department of Housing and Community Development; M-NCPPC geocoded MC_ForeclosureEvents file



Future outlook of foreclosures in the County

Anticipating trends in foreclosure events

- There are so many different things going on in the foreclosure arena that it is difficult to predict what direction foreclosures will take. E.g. Resets in this economy will not result in significant increases in arms. No one knows the impact of increasing unemployment on foreclosures or the impact in Montgomery County of quick defaults, as reported in the Washington Post Sunday, March 8.
- Based on available data and knowledge of housing issues, it would appear the total number of foreclosure events will continue at this level for the next twelve months
- Due to increased outreach and counseling, it is anticipated the number of actual lender purchases should decline as homeowners take preventative steps prior to sale
- DHCA intends to utilize federal funding and some HIF funding to purchase vacant and foreclosed properties for rental and sale to lower income families

Government efforts to address foreclosure problem

- Efforts are being made by the State and County with banks to encourage workouts with homeowners to forestall foreclosure and to have them mitigate the impact of REOs on neighborhoods by working with the County to reduce the length of time properties are vacant and in bank inventories.
- One of the biggest unknowns, at this point, is the final shape and impact of bailout programs and the housing announcement of the Obama administration during the first week of March



Impact of Foreclosures on Common Ownership Communities

Overview & Scope

Common ownership communities in Montgomery County

- 33% of the housing units in the County are in a common ownership community (Includes condominiums, co-operatives, and homeowner associations)
- 14.3% of those COC units are in condominium associations

Common ownership communities (COCs) are mini-governments that assume many of the responsibilities traditionally provided by local jurisdictions (i.e. streets, parks, pools, trash removal)

- COCs are typically denser communities, resulting in increased revenue per acre to local jurisdictions through property taxes
- Represent at least 80% of housing starts in major metropolitan areas and are often are a viable option for first time buyers

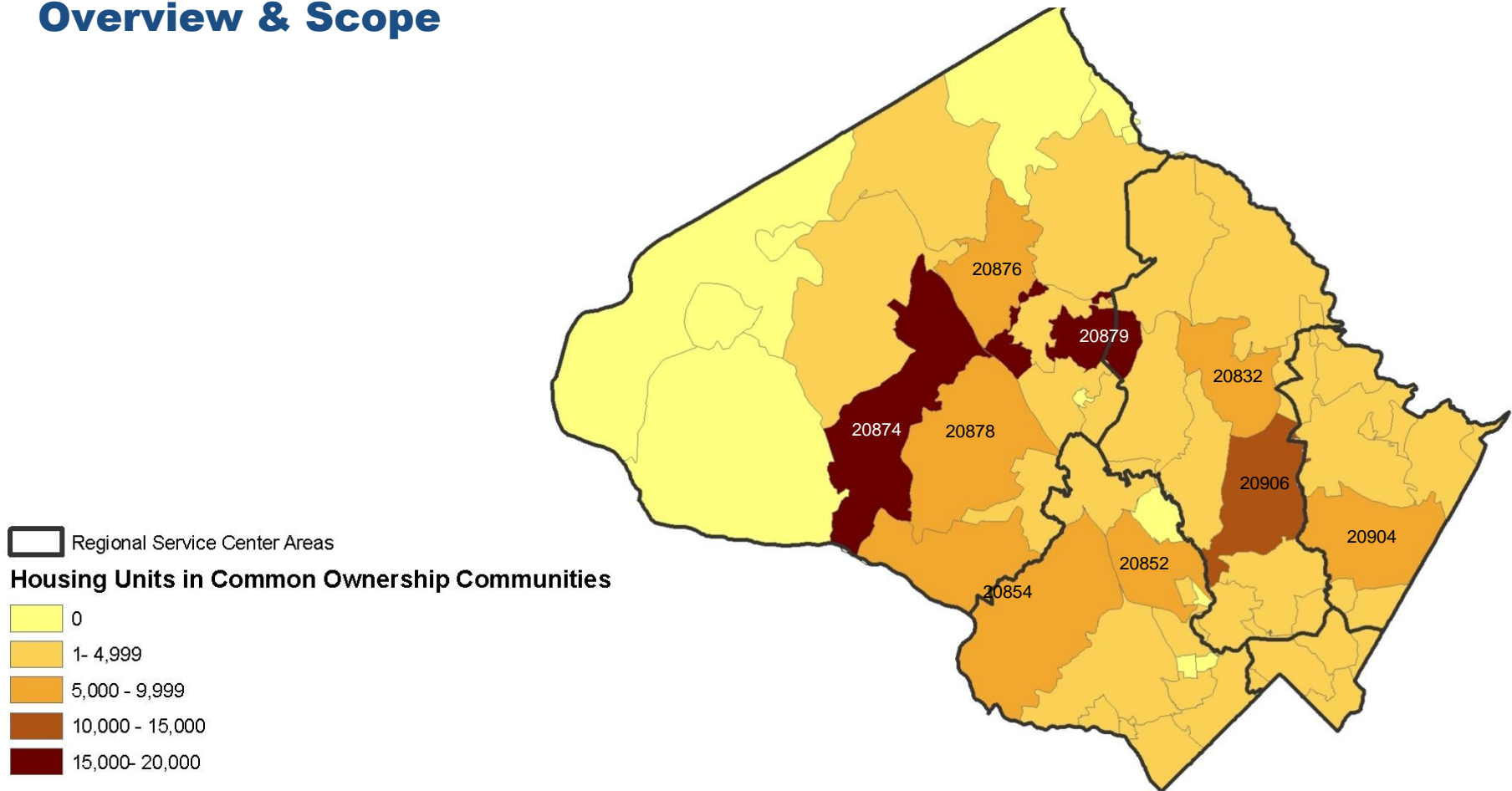
To determine if a separate strategy is needed to address COCs, it is important to examine and differentiate the needs of common ownership communities versus other types of communities in the County.



Source: Vicki Vergagni, member of Commission on Common Ownership Communities (CCOC); MNCPPC

Impact of Foreclosures on Common Ownership Communities

Overview & Scope



This map displays the concentration of housing units in common ownership communities in each zip code within the County.



Source: Data provided by DHCA, Map produced by CountyStat office

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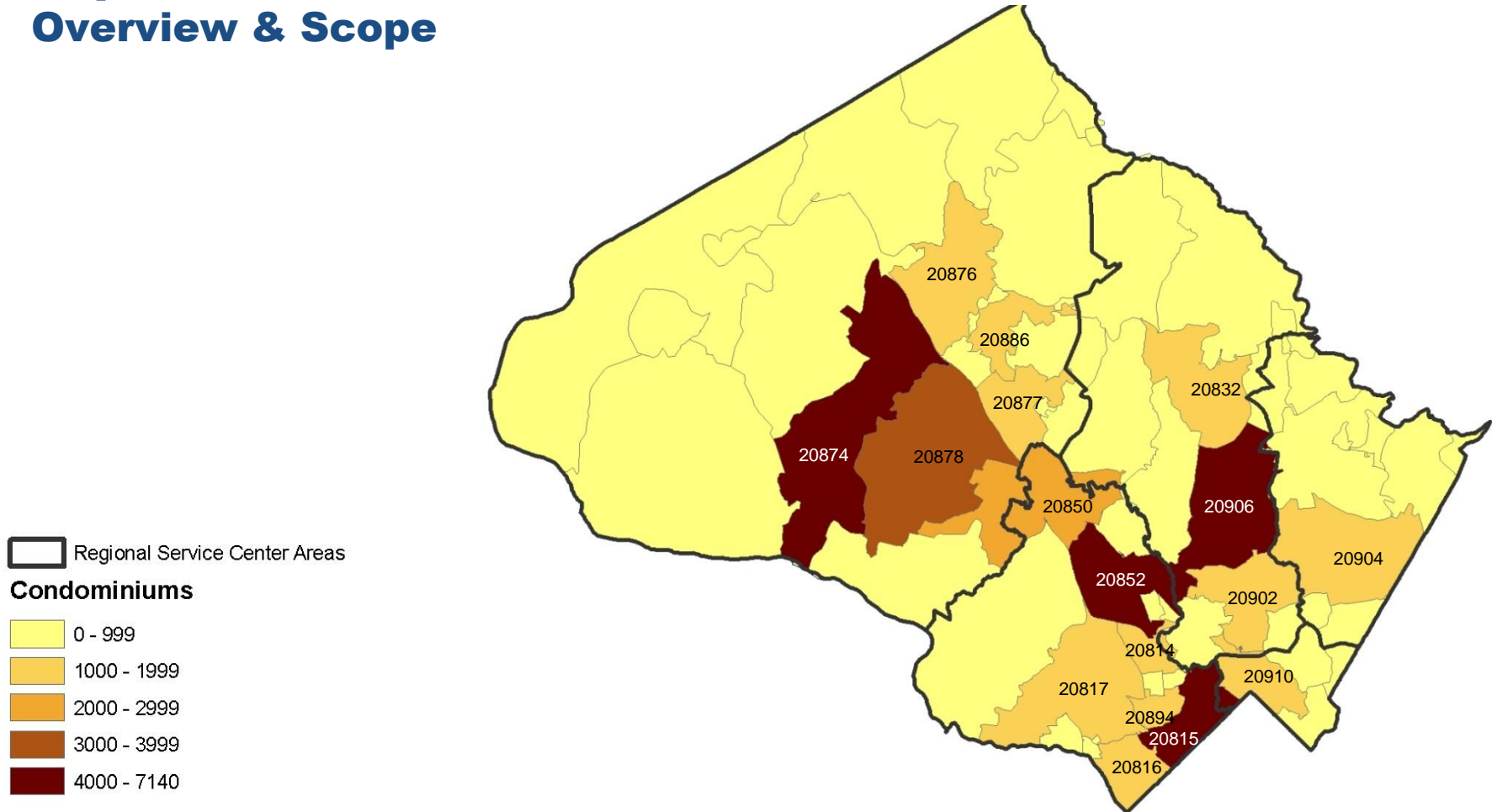
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Impact of Foreclosures on Condos

Overview & Scope



This map displays the concentration of condo units in in each zip code within the County.



Source: Data provided by DHCA, Map produced by CountyStat office

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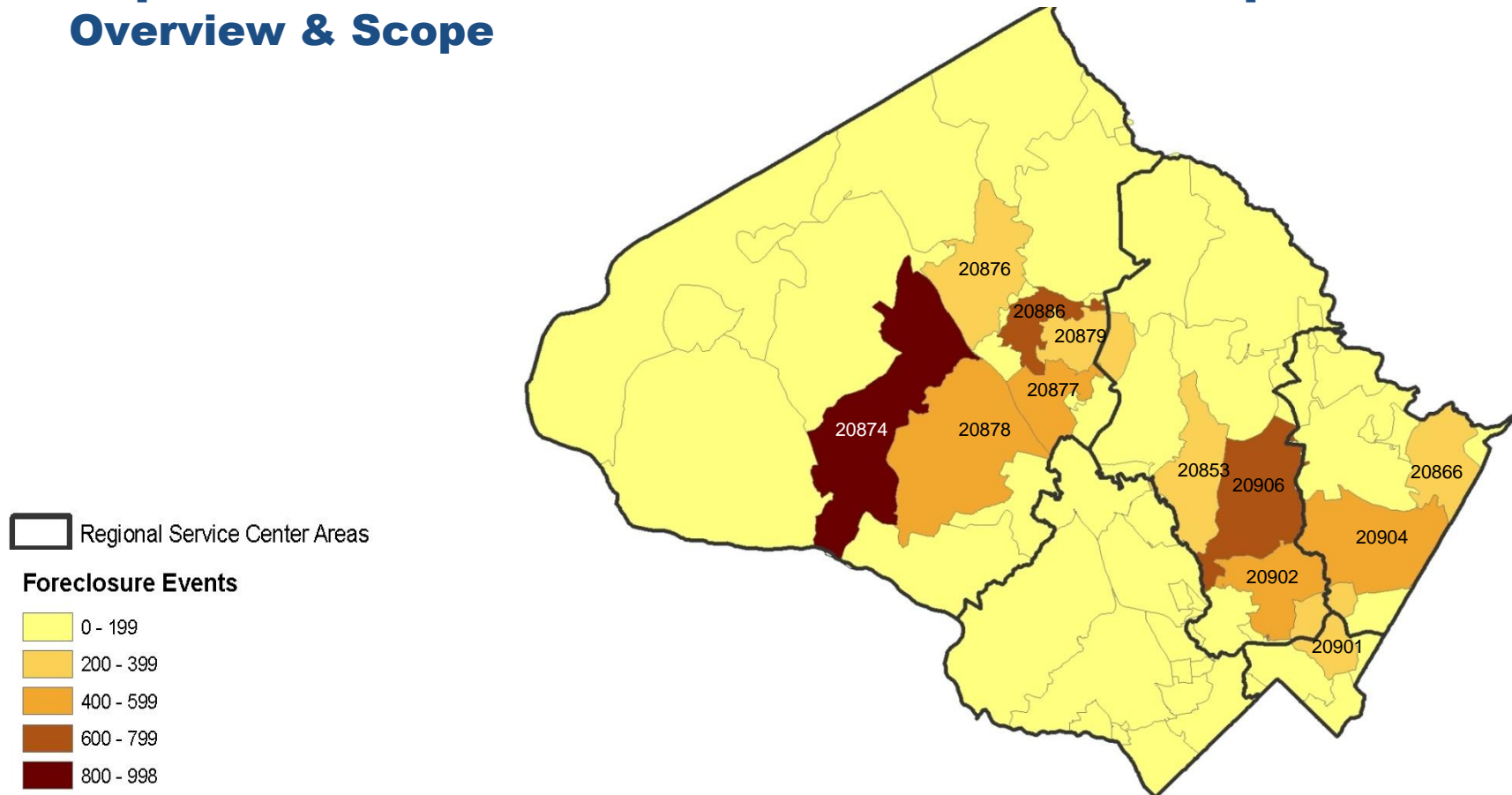
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Impact of Foreclosures on Common Ownership Communities

Overview & Scope



This map displays the concentration of foreclosure events during 2007 and 2008 in each zip code within the County. Those areas with high concentrations of foreclosure events also have high concentrations of COCs.

Source: Address-level data provided by RealtyTrac to the Maryland Department of Housing and Community Development (DHCD). The data was then "geocoded" to locate each foreclosure event for use with mapping software. The totals reported from address-level data will not always match DHCD's reported totals at the zipcode, county, or other levels of geography.



Impact of Foreclosures on Common Ownership Communities COC Perspective

According to the experience of some COCs:

- **Common ownership communities operate as a single unit, so the actions of a single homeowner can have an impact on the entire community**
 - As the number of owners who pay the bills decreases, assessments must increase
 - This has the potential to result in greater delinquencies, the sale of homes by those unable to afford the increased assessment, and less desirability for the property
- **Older condo communities with commonly metered utilities are vulnerable to these lending practices**
 - In this type of community, the paying owners must cover a bill for all association provided services
 - If several homes in the same community are in foreclosure status, this can drain both operating and reserve funds required to maintain the property

The Commission on Common Ownership Communities is concerned, in particular, about the ability of homeowners to pay assessments for community-provided services and the resulting impact on the community.



Source: Vicki Vergagni, member of CCOC

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Impact of Foreclosures on Common Ownership Communities COC Perspective

According to the experience of some COCs:

- **A homeowner or condominium association generally has two primary avenues to collect delinquent assessments**
 - Lien the property and/or foreclose on the property
 - Because home values in these cases are typically below water, the collection value on a lien placed by the association is \$0, after the lender has collected at a foreclosure
 - Secure a personal money judgment against the owner which can be collected by the seizure of bank accounts and other property, and garnishment of wages
 - Additional collection pressure for the association can force a homeowner into personal bankruptcy, lowering the chance of recovering delinquent assessments

Currently, there is not a strong option for COCs to collect delinquent assessments from homeowners, further exacerbating community impacts.



Source: Vicki Vergagni, member of CCOC

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Impact of Foreclosures on Common Ownership Communities

Interim Survey Results

The Commission on Common Ownership Communities (CCOC) administered a survey to professionally-managed COCs in the County, with the goal of collecting information on the impact of delinquent and foreclosed properties in those communities

- The County has registered 954 communities in all
- Survey was administered initially to 114 professional managers of COCs, many of whom manage multiple communities. Those managers were asked to complete a survey for each property managed
- Responses were received for 40 communities (as of 3/6/09)

Because of the low response to the initial survey, and the desirability of having more complete information on this topic, the Commission has tried another approach, which would go to all 954 COCs.



Source: CCOC

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Impact of Foreclosures on Common Ownership Communities

Interim Survey Results

Number of units in foreclosure and owners in bankruptcy (January 1, 2008, thru December 31, 2008)	Impact
Foreclosures	101
Bankruptcies	61
Estimate of assessment income association will have to write off as uncollectible for 2008	\$1,158,242

Of the communities that responded to the survey,

- 55% are condominium associations
- 45% are homeowners associations
- 0% are co-operatives

While these results cannot be used to make any County-wide judgment on the impact of foreclosures on COCs, based on this survey, the CCOC can approximate the size of the problem for those responding communities.



Source: CCOC

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Impact of Foreclosures on Common Ownership Communities

CCOC activities

Besides the survey, CCOC actions regarding the foreclosure problem include:

- Disseminating mortgage/foreclosure assistance information to COC residents through its newsletter and website;
- Educating the public and policymakers on the problems faced by COCs due to not receiving assessments from units that go into foreclosure (A Commissioner was quoted in articles in the Washington Post and Examiner);
- Supporting legislation that would assist COCs in recovering past due assessments on foreclosed units. For example, the CCOC is supporting currently pending Maryland House Bill 74.



Impact of Foreclosures on Common Ownership Communities

Evaluating the need for a unique strategy

Is the difference in needs between COCs and more traditional communities great enough to warrant the development of a unique strategy to deal with them?

According to the Office of Consumer Protection (OCP)

- All communities suffer from increased number of foreclosures. COCs also experience some unique problems not found in a traditional community. These additional issues are more pronounced in the older COCs in which the utilities are commonly metered.
- However, the problems in all communities posed by an increase in the number of foreclosures would be addressed uniformly by any successful strategies that reduce the number of foreclosures in general.
- Strategies designed to reduce the number of foreclosure will serve to benefit COC and non-COC communities.
- The unique extra issues experienced by COCs may warrant legislative and policy considerations to address the issues resulting from an increase in foreclosures.
 - For example, “priority lien” legislation and requiring up-front payment of condo fees at the time of a foreclosure, may serve to ease the burden on COCs during a period of increased foreclosures.
 - In addition, government assistance to enable COCs and residents to secure loans in order to make capital improvements, would also serve to ease the burden on COCs during a period of increased foreclosures.



Assessing best practices:

Using a model ordinance to mitigate foreclosure impacts

Creation of a Model Ordinance: Residential Abandoned Property Ordinance

- Chula Vista, CA created an ordinance in 2007 to address the burden that blight from foreclosed and vacant properties was placing on city services
 - Lenders are responsible for upkeep as soon as a notice of mortgage default has been filed on a vacant dwelling
 - Requires vacant foreclosed properties to be registered with the city
 - Names of the lender and the person responsible for maintaining the property must also be provided
 - If properties are not registered or maintained, violators are fined up to \$1,000
 - Testified before a U.S. House of Representatives subcommittee
 - As of October 2008, no cities that have adopted such legislation have been successfully challenged in court.

Chula Vista's ordinance shifts the costs of maintaining foreclosed properties from the County to the lenders. Chula Vista officials have been contacted by more than 150 cities for aid in crafting similar legislation.



Source: City of Chula Vista, CA

Assessing best practices:

Using a model ordinance to mitigate foreclosure impacts

Since 2007, Chula Vista has learned some lessons and made some changes to improve its ordinance

Lessons Learned:

- Original ordinance allowed the lender to hire a local property manager or real estate agent to manage the vacant property, resulting in some property deterioration and confusion on the part of property managers about their responsibilities
- An increase in workload for 3 code enforcement officers who deal with vacant and foreclosed properties had to be dealt with
- Incomplete compliance with the registration requirement for lenders with foreclosed and vacant properties, therefore the city has relied on citizen reporting as a supplement
- To streamline its process, the City is testing an online registry system allowing lenders to register vacant properties voluntarily and waive the associated fee. *Results so far.* Some lenders are not registering the correct contact info and providing information only for the property managers. As a result, the city is fining the lender for this omission

Ordinance Change:

- Lender must hire a national field service provider, rather than a local realtor because the local realtor did not take appropriate responsibility or respond in a timely manner

While this ordinance has, by and large, been successful, there are some key lessons learned around workload and compliance.



Source: City of Chula Vista, CA

Assessing best practices:

Using a model ordinance to mitigate foreclosure impacts

Potential variables for inclusion in a model ordinance	Pros	Cons
Protocol for presale issues of tenants residing at the property awaiting the foreclosure sale/eviction	<ul style="list-style-type: none"> Positive requirement would be notice to tenant at each stage owner is noticed and allow 60 days after foreclosure for eviction. 	<ul style="list-style-type: none"> Possible incentive for tenants to not pay rent and be subject to suit later for recoupment of unpaid rent which tenant no longer has
Definitions of vacancy status	<ul style="list-style-type: none"> Require owner to notify DHCA at each stage – default, notice of sale and sale. 	<ul style="list-style-type: none"> None
Streamlined notification process for homeowners	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> This appears to be redundancy of state action last April
Requirement for registration of foreclosed properties (Time frame post-sale vs. pre-sale)	<ul style="list-style-type: none"> Time frame should shadow state requirements but notice to DHCA 	<ul style="list-style-type: none"> None



Source: DHCA

Assessing best practices:

Using a model ordinance to mitigate foreclosure impacts

Potential variables for inclusion in a model ordinance	Pros	Cons
Establishment of registration fees, code inspection fees, and penalties	<ul style="list-style-type: none"> Income producer 	<ul style="list-style-type: none"> Administrative burden and hard to collect
Procedures for de-registering properties	<ul style="list-style-type: none"> Important to reduce on-going workload of inspectors 	<ul style="list-style-type: none"> None
Maintenance contact requirements	<ul style="list-style-type: none"> Facilitates an onerous task we currently have 	<ul style="list-style-type: none"> None
Requirements for property maintenance (i.e. utility shut-off, securing of windows and doors, signage requirements, etc.)	<ul style="list-style-type: none"> Property maintenance should be assigned to someone locally. Property should be secured. 	<ul style="list-style-type: none"> Utility shutoffs don't work in the winter in Montgomery County. Signage can suggest "easy mark" for unwelcome visitors.

An ordinance of this kind would provide specific guidelines for properties in foreclosure. Other jurisdictions have experienced improvement in community impacts including code enforcement and tenant issues.



Source: DHCA

Assessing best practices:

Using a model ordinance to mitigate foreclosure impacts

According to DHCA

- The major question is whether the problem we are trying to cure is worth the effort and/or costs of cure
- We have not determined that the vacancies caused by foreclosures are significant enough to go through the legislative, and then administrative process to address the problem



Source: DHCA

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Recent developments in Federal and State funding

Scope of State and Federal funding

- \$2,073,965 NSP grant agreement has been received and is being executed by ACAO
- State funding has been applied for in the amount of \$7 million. Announcement is “imminent.”
 - Unclear amount County will receive, but anticipate it will be less than \$7 million
- MD-DHCD is putting up \$200,000 for counseling in Montgomery County. We will match about \$150,000.
- MD-DHCD has given the County \$400,000 community legacy funding for acquisition of foreclosed properties.
- Stimulus package will be competitive from national level.
 - Criteria will be revealed by HUD in early May, though it is anticipated that the criteria will minimize, if not eliminate funding for Montgomery County due to the County’s foreclosure rate relative to others around the country.



Source: DHCA

Recent developments in Federal legislation

Impact of potential new legislation

- The House passed a mortgage relief bill last week with the Senate possibly following this week
 - The County's task, should the bill be enacted, is to ensure our counselors are assisting those facing foreclosure to take advantage of the modified mortgage opportunities. The same is true of the proposals of the Obama administration. Hopefully, the increase to eight counselors in the County will help in this outreach effort.



Source: DHCA

Meeting #3 Outcomes

- Evaluate the current state of foreclosure events in the County and compare to previous quarters
 - Outcome: Foreclosure events have continued to increase over the last three quarters.
- Examine and differentiate the needs of common ownership communities v. other types of communities in the County
 - Outcome: In general, strategies designed to reduce the number of foreclosure will serve to benefit COC and non-COC communities. However, there are unique extra issues experienced by COCs that may warrant legislative and policy considerations to address those issues.
- Evaluate the feasibility of implementing a model ordinance that would address foreclosed and vacant properties in the County
 - Outcome: The magnitude of the foreclosure problem does not yet suggest a solution like the one implemented in Chula Vista.



Wrap up

- Follow-up items



Appendix

Follow-up Item: Tracking Outcomes of Foreclosure Programs Code Enforcement

		10/16/08	12/31/08	3/5/09
Number of inspections		603	725	962
With a violation	Grass and weed	360	411	481
	Solid waste	195	256	309
	Vacancies open to casual entry	13	14	19
	Vacancies with unauthorized occupants	2	2	2
With no violation		80	81	89
Violations resulting in voluntary compliance		488	590	799
Clean and Liens		69	88	111
Emergency board-ups		9	14	14



Source: DHCA